

STATE OF NEW MEXICO
COUNTY OF SANTA FE
First JUDICIAL DISTRICT COURT

FILED 1st JUDICIAL DISTRICT COURT
Santa Fe County
3/29/2022 4:42 PM
KATHLEEN VIGIL CLERK OF THE COURT
Liliana M Villalobos

JESUS MORENO,

Plaintiff,

vs.

D-101-CV-2022-00534
Cause No. _____
Case assigned to Ellenwood, Kathleen McGarry

DEVON ENERGY CORPORATION
and DEVON ENERGY PRODUCTION
COMPANY, L.P.,

Defendants.

PLAINTIFF'S COMPLAINT FOR PERSONAL INJURIES

Plaintiff, Jesus Moreno, by and through his attorneys, Arnold & Itkin LLP, files this complaint against Defendants Devon Energy Corporation and Devon Energy Production Company, L.P., (collectively, "Defendants") and alleges the following:

**I.
PARTIES**

1. Plaintiff Jesus Moreno is a resident of Texas.
2. Defendant Devon Energy Corporation is a foreign limited liability company that is headquartered in Oklahoma City, Oklahoma, but its business in New Mexico caused Plaintiff's personal injuries. Defendant Devon Energy Corporation may be served with

process through its registered agent in New Mexico, Corporation Service Company, 125 Lincoln Avenue Suite 223, Santa Fe, New Mexico 87501.

3. Defendant Devon Energy Production Company, L.P. is a foreign limited liability company that is headquartered in Oklahoma City, Oklahoma, but its business in New Mexico caused Plaintiff's personal injuries. Defendant Devon Energy Production Company, L.P. may be served with process through its registered agent in New Mexico, Gregory J. Nibert, 400 Penn Plaza Suite 640, Roswell, New Mexico 88201.

II. JURISDICTION AND VENUE

4. This cause of action is based upon actions and/or omissions to act by Defendants and their agents and/or employees which occurred in New Mexico.

5. This Court has jurisdiction over the parties hereto and the subject matter herein.

6. Venue is proper in this Court pursuant to NMSA 1978 § 38-3-1(F), where the cause of action originated.

7. This cause of action is commenced pursuant to NM Stat. § 37-1-14 (2018) that tolls the applicable statute of limitations.

III. FACTUAL ALLEGATIONS

8. Plaintiff hereby incorporates and restates paragraphs 1 through 7 of his Complaint herein by reference.

9. On or about October 31, 2017, Plaintiff was working on a land rig in Lea County, New Mexico, known as Rig No. 242, at a drilling site that was managed, owned, and operated by Defendants.

10. On October 31, 2017, because of the Defendants' collective failure to: (1) properly manage and operate the drilling operations and specifically the blowout preventer ("BOP") by failing to control the X nipple passing through the BOP annular rubber; (2) failure to use any fall harness protection; and (3) failure to implement stop work authority and other policies and procedures, Plaintiff was thrown down to the rig floor and fell several feet below. The rig floor along with the area where Plaintiff fell is pictured below:



11. As a result of the incident, Plaintiff suffered serious injuries to his head, back, left ankle and right shoulder.

12. Following the incident, Barry McLemore and John Kraatz, employees of nonparty Ranger Energy Services, LLC, prepared investigation reports relating to the incident and communicated with the New Mexico OSHB office about the incident.

IV. CAUSES OF ACTION

13. Plaintiff hereby incorporates and restates paragraphs 1 through 12 of his Complaint herein by reference.

14. Defendants were negligent, negligent *per se*, and grossly negligent for the following reasons:

- a. failure to properly train their employees and contractors;
- b. failure to provide adequate medical treatment;
- c. failure to provide a reasonably safe workplace;
- d. failure to properly inspect and maintain the equipment in question;
- e. failing to properly warn about unreasonably dangerous conditions at the work site;
- f. failing to make unreasonably dangerous conditions at the worksite safe;
- g. vicariously liable for the conduct of its employees and/or agents;
- h. violation of applicable, local, state, and federal laws and/or regulations; and
- i. other acts deemed negligent, negligent *per se*, and/or grossly negligent.

15. As a result of Defendants' conduct, Plaintiff sustained severe injuries to his body which resulted in physical pain, mental anguish, disfigurement, and other medical problems. Plaintiff has sustained severe pain, physical impairment, discomfort, disfigurement, mental anguish, and distress. In all reasonable probability, Plaintiff's medical problems, disfigurement, physical pain, physical impairment and mental anguish will continue indefinitely. Plaintiff has also suffered a loss of earnings in the past, as well as a loss of future earning capacity. Plaintiff has incurred and will incur pharmaceutical and medical expenses in connection with his injuries.

16. In addition, Plaintiff is entitled to punitive damages because the aforementioned actions of Defendants were willful, wanton, reckless and grossly negligent. Defendants acted with flagrant and malicious disregard of Plaintiff's and others' health and safety. Defendants were objectively aware of the extreme risk posed by the conduct which caused Plaintiff's injury, but did nothing to rectify them. Defendants' acts and omissions involved an extreme degree of risk considering the probability and magnitude of potential harm to Plaintiff and others. Defendants had actual, subjective awareness of the risk, and consciously disregarded such risk. Accordingly, Plaintiff is entitled to and seeks exemplary damages.

**V.
JURY DEMAND & PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests a trial by jury on all issues and prays for damages against Defendants for the following categories of damages:

- a. Past and future medical expenses;
- b. Past and future pain and suffering;

- c. Past and future economic loss from lost wages and/or reduced earning capacity;
- d. The mitigating or aggravating circumstances attending the wrongful act;
- f. Punitive damages;
- g. Cost of this action;
- h. Post judgment and pre-judgment interest; and
- i. Any and all other relief the Court deems just and proper.

Respectfully submitted,

ARNOLD & ITKIN LLP

/s/ Noah Wexler

Noah M. Wexler

SBN: 149045

Trent A. Shelton

Pro Hac Vice Anticipated

Texas State Bar No. 24121119

6009 Memorial Drive

Houston, Texas 77007

Tel: 713.222.3800

Fax: 713.222.3850

nwexler@arnolditkin.com

tshelton@arnolditkin.com

e-service@arnolditkin.com

ATTORNEYS FOR PLAINTIFF

FILED 1st JUDICIAL DISTRICT COURT
 Santa Fe County
 4/21/2022 3:06 PM
 KATHLEEN VIGIL CLERK OF THE COURT
 Leticia Cunningham

4-206. Summons.

[For use with District Court Civil Rule 1-004 NMRA]

[RETURN]	
SUMMONS	
District Court: <u>First</u> <u>Santa Fe</u> County, New Mexico Court Address: 225 Montezuma Avenue Santa Fe, NM 87501 Court Telephone Number.: (505) 455-8250	Case Number: D-101-CV-2022-00534 Judge: Kathleen McGarry Ellenwood
Plaintiff(s): Jesus Moreno v. Devon Energy Corporation and Devon Defendant(s): Energy Production Company, L.P.	Defendant Devon Energy Corporation Name: Corporation Service Company Address: 123 Lincoln Avenue, Suite 223 <u>110 E Broadway St</u> Santa Fe, NM 87501 <u>Hobbs, NM 88240</u>

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6227; or 1-505-797-6066.

Dated at Santa Fe, New Mexico, this 8 day of April, 2022.

KATHLEEN VIGIL
 CLERK OF COURT

By: Judith Martinez
 Deputy



Attorney for Plaintiff or
 Plaintiff pro se

Name: Arnold & Itkin LLP / Trenton A. Shelton
Address: 6009 Memorial Drive, Houston, TX 77007
Telephone No.: (713) 222-3800
Fax No.: (713) 222-3850
Email Address: e-service@arnolditkin.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 NMRA OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
)ss
COUNTY OF Lea)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Lea county on the 20 day of April, 2022 by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ *(used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)*

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA *(used when service is by mail or commercial courier service).*

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, *(used when the defendant is not presently at place of abode)* and by mailing by first class mail to the defendant at _____ *(insert defendant's last known mailing address)* a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ *(insert defendant's business address)* and by mailing the summons and complaint by first class mail to the defendant at _____ *(insert defendant's last known mailing address).*

☒ to Lavonne Lopez, an agent authorized to receive service of process for

defendant Devon Energy Corporation Company

[] to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

[] to _____ (name of person), _____
(title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

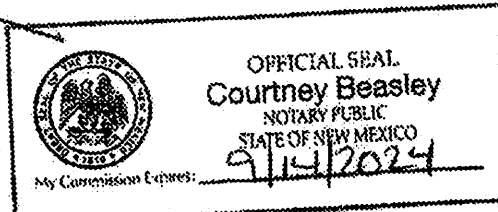
Mariela Campos
Signature of person making service

Title (if any)

Subscribed and sworn to before me this 20 day of April, 2022.

[Signature]
Judge, Notary or other officer
authorized to administer oaths

Notary
Official title



USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. 13-8300-022, effective for all cases pending or filed on or after December 31, 2013; as amended by Supreme Court Order No. 14-8300-017, effective for all cases pending or filed on or after December 31, 2014.]

AFFIDAVIT OF SERVICE

State of New Mexico

County of Santa Fe

First Judicial District Court

Case Number: D-101-CV-2022-00534

Plaintiff:

JESUS MORENO

vs.

Defendant:

**DEVON ENERGY CORPORATION AND DEVON ENERGY PRODUCTION
COMPANY, L.P.**

For:

Easy-Serve

P.O. Box 52490

Houston, TX 77052

Received these papers on the 13th day of April, 2022 at 4:32 pm to be served on **Devon Energy Corporation Company c/o RA: Corporation Service Company, 110 E Broadway St, Hobbs, NM 88240.**

I, Mariela Campos, being duly sworn, depose and say that on the **20th day of April, 2022 at 10:31 am, I:**

served an **AUTHORIZED** entity by delivering a true copy of the **Summons, Plaintiff's Complaint For Personal Injuries** to: **Louanne López** at the address of: **110 E Broadway St, Hobbs, NM 88240**, who stated they are authorized to accept service for **Devon Energy Corporation Company**, and informed said person of the contents therein, in compliance with state statutes.

Additional Information pertaining to this Service:

4/19/2022 9:18 am Attempted service at 125 Lincoln Avenue, Ste 223, Santa Fe, NM 87501, suite 223 is under construction and vacant of a tenant. Spoke to a receptionist at Sommer Karnes Law Firm in suite 221 who stated CSC moved out over 7 years ago.

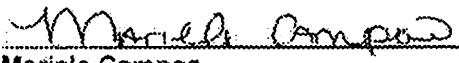
4/20/2022 10:31 am Mariela Campos served Devon Energy Corporation Company c/o RA: Corporation Service Company at 110 E Broadway St in Hobbs, NM 88240 by hand delivering the documents to Louanne Lopez, Legal Assistant and authorized agent.

Description of Person Served: Age: ~43, Sex: F, Race/Skin Color: Hispanic, Height: 5'6", Weight: 130, Hair: Dark Brown, Glasses: N

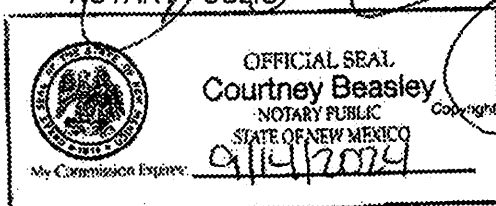
I certify that I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the 20th day of April, 2022 by the affiant who is personally known to me.

NOTARY PUBLIC


Mariela Campos
Process Server

Our Job Serial Number: MPP-2022002326
Ref: 295642.2



FILED 1st JUDICIAL DISTRICT COURT
 Santa Fe County
 4/21/2022 3:06 PM
 KATHLEEN VIGIL CLERK OF THE COURT
 Leticia Cunningham

4-206. Summons.

[For use with District Court Civil Rule 1-004 NMRA]

[RETURN]	
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Plaintiff(s): Jesus Moreno v. Devon Energy Corporation and Devon Defendant(s): Energy Production Company, L.P.	Defendant: Devon Energy Production Company, L.P. Name: Gregory J. Nibert Address: 400 Penn Plaza, Suite 640 Roswell, NM 88201

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6227; or 1-505-797-6066.

Dated at Santa Fe, New Mexico, this 8 day of April, 2022.

KATHLEEN VIGIL
 CLERK OF COURT

By Judge Martinez
 Deputy



Attorney for Plaintiff or
 Plaintiff pro se

Name: Arnold & Itkin LLP / Trenton A. Shelton
Address: 6009 Memorial Drive, Houston, TX 77007
Telephone No.: (713) 222-3800
Fax No.: (713) 222-3850
Email Address: e-service@arnolditkin.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 NMRA OF THE NEW MEXICO
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
)ss
COUNTY OF CHAVES)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Chaves county on the 19 day of April, 2022 by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ *(used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)*

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA *(used when service is by mail or commercial courier service)*.

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, *(used when the defendant is not presently at place of abode)* and by mailing by first class mail to the defendant at _____ *(insert defendant's last known mailing address)* a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ *(insert defendant's business address)* and by mailing the summons and complaint by first class mail to the defendant at _____ *(insert defendant's last known mailing address)*.

☒ to Taffy Beach, an agent authorized to receive service of process for

defendant Devon Energy Production Company, L.P.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

☐ to _____ (name of person), _____
(title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

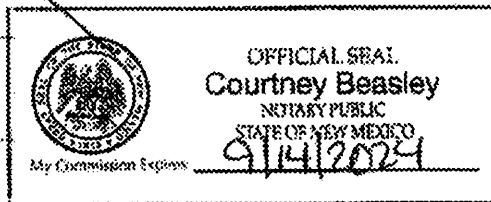
Isabel Silva
Signature of person making service

Title (if any)

Subscribed and sworn to before me this 20 day of April, 2022.

[Signature]
Judge, notary or other officer
authorized to administer oaths

Notary
Official title



USE NOTE

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2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. 13-8300-022, effective for all cases pending or filed on or after December 31, 2013; as amended by Supreme Court Order No. 14-8300-017, effective for all cases pending or filed on or after December 31, 2014.]